

STORIES OF THE LOST MERIDA

750,000 IN TREASURE WENT TO THE BOTTOM TO STAY.

"There Goes a Damned Good Ship," said the skipper as she sank. Blame laid on the Frigate—she's Here Many Passengers Arrive Forlorn.

When the Ward liner Merida foundered in 20 feet of water fifty-five miles off Cape Charles on Friday morning after being rammed amidships on the port side by the American mail steamship Admiral Farragut, she took to the bottom with her \$750,000 in silver bars, mined in Mexico, and about \$300,000 in specie, gold and silver. This treasure is irretrievable, being many fathoms below the safe diving depth.

Most of her officers and crew and fifteen of her passengers arrived yesterday by the Old Dominion liner Princess Anne, said Capt. Archibald Robertson, and his officers had behaved with admirable coolness and that there was not at any time anything bordering on panic among passengers or crew. Capt. Robertson, First Officer George Nordstrom, Third Officer H. S. Myddleton, formerly a mate in the naval service of Uncle Sam; Quartermaster Malcolm McPherson and R. H. Sloan and two cadets were in the emergency lifeboat, sometimes called the captain's gig, which left the ship about fifteen minutes before she sank.

The skipper's shipmates say that the Merida seemed to groan when she rolled to starboard and lifted her bow. The sea got the better of her after that and she straightened out almost on a level keel and settled slowly. Her hatches blowing off under the pressure of the sea below decks. Finally she vanished stern first. The skipper looked at her with grave eyes and said: "There goes a damned good ship! All hands in the lifeboat nodded approval. The skipper then turned his eyes in the direction of the Admiral Farragut, which was in the direction in which he had last seen her. He noted that she had been swallowed by the fog. He gazed again at the last eddies marking momentarily the sepulchre of the Merida and remarked with real salt sea feeling:

"It's a damned shame!"

Again the men of the emergency lifeboat nodded. Then they got down to the business of finding where they were. After foundering around in the fog more than two hours the skipper and his men rediscovered the Admiral Farragut and clambered aboard. They ripped open the air chambers of their lifeboats so that they might sink when invaded by the sea. All the ship's officers in charge of the six other lifeboats had been instructed to do likewise, so that liners might not be fooled into losing time on their courses when they saw lifeboats that might have human beings aboard.

The blame for the collision, according to officers and men of the Merida, lies with the Admiral Farragut, which arrived yesterday and went into Robin's dry dock in Erie Basin, her skipper, Capt. Mader, refusing, under instructions from her owners, to say anything for publication. The Merida was on her proper course, heading north, one-half east. Just before the disaster there was only a light mist. The Farragut, on her proper course, heading south, one-half west, appeared on the port bow of the Ward liner. She brought with her a fog cloud that enshrouded her below the upper deck, but her masthead light was distinctly visible to Capt. Robertson and the others who were on the Merida's bridge. Both ships had been blowing prolonged fog signals that were heard by sleepless passengers aboard the Merida.

Under the rules of the road it was the proper thing for the Merida's skipper to blow one short blast to indicate that he would go to the right. This is what he did, his officers say. The response of the Farragut to the signal of the Merida is said to have been one whistle. Whether or not this is so, it is certain, from the testimony of the men of the Merida who got in yesterday, that the Farragut instead of porting her helm and going to the right starboarded it and went to the left. This finally brought the ships at right angles to each other, and the Farragut, going at half speed, smote the Merida amidships. A geyser of sparks arose from the point of impact, followed by a cloud of smoke. The first shock was followed swiftly by another caused by the effort of the two ships, still under way, to stand on their respective courses. The second shock was much lighter than the first, as steam had been shut off in both engine rooms, but momentum lasts after the throttles are closed.

A minute after the crash the second engine came up to the bridge and told Capt. Robertson that the ship was flooded and that the ship could not keep afloat. The captain ordered all the lifeboats except the emergency boat, which was always ready, swung out on the davits, and the two lifeboats made ready. The orders were obeyed swiftly and so quietly that few of the passengers, many of whom, sleeping far from the wound in the Merida's side, were not awakened by the shock, knew what had happened. Within ten minutes after the collision every soul aboard the Merida was awake and aware that the liner was in peril. The crew was not panic-stricken, but seemed to have implicit confidence in the skipper and officers, who in the course of their necessary appearances before the passengers, told everybody that there was really no danger, although as a precautionary measure they would have to abandon ship. There was little wind and the sea was placid, which helped to lend color to the illusion that there was no danger. Just before the second engine revealed the doom of the ship to Capt. Robertson the third engineer, Jones, in water to his chest had shut off steam. Chief Engineer L. H. in his pajamas, ran below a moment later and found himself swimming. He clung to his life on deck as the sea was rising in a torrent. The skipper had closed the collision bulkhead doors between the bridge and the stem of the ship, but he might be able to float a few minutes.

With a few of the passengers had courage enough to go back to their staterooms to get on their usual clothing. More than three-quarters of them were saved. The ladies, however, were in a worse plight. Some of the passengers had prepared themselves with makeshift suits and dresses at Norfolk. None had saved baggage and a few had lost all their jewelry. The sea was so high that more than an hour tugging at it. But it contained a lot of very heavy specie as well as the jewelry, all of which finally washed in. The ship was probably no submarine wreck and probably no submarine will ever be able to follow it.

The condition created by the coolness of the skipper and his men acted as a tonic on the passengers. When the first boat left the ship all or nearly all the passengers aboard were singing, chiefly in Spanish. Later, when the Merida was seen sinking, the passengers became solemn. Not a lifeboat was lowered from the Farragut. The whole work of rescue was by the men of the Merida.

The Merida's wireless operator, Herbert O. Benson of Brooklyn, began sending out the wireless call for help a few seconds after the battered nose of the Farragut was withdrawn from the gaping side of the Ward liner. He also came up by the Princess Anne, and he told his experience thus:

"I received an answer to my call from Hattens a few minutes after I began sending it out," he told Hattens what had happened and he said he would inform the naval station. I worked the wireless about twenty minutes. Then the water got up so far that it stopped the dynamo and all the lights went out. The ship began heeling to starboard. [The greater weight was probably in the bunkers on that side.] From that time onward I could not send, but I could receive. As soon as I found the wireless was useless I ran to the bridge and told Capt. Robertson, who said: 'If that is so go to the other ship as soon as you can, they may need help there.'

"I went in the first boat that left the ship and boarded the Farragut. Operator Leach of the Farragut was unable to do anything because his aerial was down. Leach and I went up the mast and lashed the aerial and reestablished communication. I got a call in about five minutes from the battleship lower, saying that she was coming at 20 knots and would have us in half an hour. I then got a message from the Old Dominion liner Hamilton. I gave her our position and she gave me hers. As she was closer to us than the Iowa I told her I would men to stay out and that I would talk to the Hamilton direct. In all this time I had trouble with the operator at the naval station at Charleston, which was communicating with the naval station at Portsmouth. He seemed to be unable to understand our danger and would not stay out, although I begged him to. I gave all my time afterward to directing the Hamilton. She overran us in the fog and came back again and took off everybody."

"Women and children first," the traditional order in shipwrecks, was observed to the letter. This resulted in the separation of wives and husbands and in a few instances of children and mothers.

One mother who feared to take her baby down the sea ladder with her gave it to Quartermaster Ales, who wore a sailor suit and looked not unlike a man-of-war man. Ales tucked the baby away in his blouse and restored it to its mother later. Another mother of the Merida's crew who got a baby to take care of was one of the last to leave the ship. He sought the mother when he got aboard the Farragut. She was on an upper deck waiting for her child, which she thought had been drowned. After a while the sailor man, who was almost as distracted as the mother, found her and gave up the baby.

A. D. Guerra, of 109 First street, Brooklyn, a cabin passenger, came out of the disaster with only a collar and a comb and a pair of pajamas. He has the distinction of being the only man who fell overboard. He said that he had got the fine outfit of light summer clothing he wore from a dealer in Norfolk, who with others of the town's storekeepers kept open late to accommodate the half nude and the thinly clad. He found the saloon of the Merida had been divided into two halves by a steward, filled with men and women all in the clothing they had slept in. The stewards were cool, and some of them stretched the truth to the limit of saying that there was no danger and that everybody might go back to bed after a while. When the lights went out the stewards brought in bulkhead lamps, and candles, which cheered up those who had been frightened, especially the children, by the sudden plunge into gloom due to the stopping of the dynamo.

The chief concern of the passengers seemed to centre on life preservers. Mr. Guerra gave his to a woman and later returned to his stateroom, bringing more so that such all hands were equipped. There were about forty persons in each of the big lifeboats. Mr. Guerra and four other men were the last passengers to leave the ship. He said that when they saw what they supposed was the last boat to leave the ship they feared that they might go down with her and jumped for a raft that lay alongside. Mr. Guerra was the last of the five to jump. He missed and the other four hauled him aboard. He and his companions drifted about a mile or so in the fog before they were found by a lifeboat sent to cruise for them and towed to the Farragut. All the time they were adrift they heard the fogging of the ship and they shouted until they were hoarse before help came.

Mrs. August Peon was the only person injured. She is the wife of a hemp exporter of Yucatan and, it is said, had a valuable jewelry in the purse's safe. She was sitting in a steamer chair on the deck in line with the point where the stem of the Farragut entered and her back was hurt. She was slightly paralyzed and is under a doctor's care at a Norfolk hotel.

The larger part of the Merida's passengers were from the city of Norfolk. The ship arrived last night from Norfolk by train. Capt. Robertson had been instructed to say nothing about the manner in which the accident occurred and obeyed instructions.

The Admiral Farragut came into Sandy Hook yesterday afternoon under own steam and was escorted up the bay by the battleships USS Oregon and USS Alabama. Supt. W. H. Dubois of the American Mail Steamship Company boarded her down the bay and told her skipper, Capt. Mader, to take the ship to the right angles with her sides and there is a rent in her starboard bow extending from a point six feet above the water line to her deck and about twenty feet aft. The port bow is also badly gashed and both anchors are driven into the plates and twisted. Supt. Dubois said:

"Although the Admiral Farragut is chartered to the United Fruit Line the American Mail Steamship Company will assume all responsibility. The damage to the ship is about \$75,000, and it will take three or four weeks to make repairs."

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RECALL ALL WRONG, SAYS TAFT

Continued from First Page.

can be made to work. [Here Mr. Stimson bowed to Mr. Henry.] I see before me a gentleman who has made it work. [Applause.] The reason criminal procedure doesn't work out so well in State courts is because there is so much tinkering by legislatures.

Mr. Irvine said that crimes are made by Legislatures nowadays because the Legislatures are under the control of the politicians and the politicians are bossed by the bosses. Then Mr. Irvine waved Mr. Henry to the speaker's box.

Mr. Henry said that San Francisco doesn't love him. What's more, he added, New York wouldn't love him if he came here and did the same kind of work against the same class of people. He didn't agree that any honest, vigorous District Attorney could get convictions. He had found out that people get cold when their friends are being prosecuted. Barriers are erected. San Francisco likes to see Portland's criminals hunted but objects when her own are pursued.

After convicting land thieves in Portland I met Abe Ruef on the street one day in San Francisco," said Mr. Henry. "He grabbed my hand, shook enthusiastically and said: 'Frank, I congratulate you. You are doing great work. Keep it up.'"

A few minutes later, at 10:25 P. M., the President entered Mr. Henry's box and Mr. Taft immediately began to read his speech after the jocular remark:

"I am used to this continuous performance, you know."

He said:

I am sure you do not expect me at this late hour to engage in a comprehensive consideration of the changes in the law and rules of criminal procedure to make more certain and expeditious the punishment of crime in this country. The statistics which show the crimes that go unpunished in this country as compared with those in England are startling and humiliating to any son of America who has pride in his fellow countrymen as a law abiding and law enforcing people. A study of the English system will show that their procedure and their guarantees in favor of the individual as to indictment, trial and conviction, and their provision for the security of the liberty of the individual, are exactly the same as ours, for we derive ours from them. Our bills of rights, both in Federal and State constitutions, are simple copies of limitations found in the Magna Charta, the petition of rights and the bill of rights, which are part of the British constitution.

Why is it then, that speaking generally every person who commits a crime in England is tried and rarely escapes punishment, while in this country it is not too much to say that a majority escape the law? Certainly if the statistics are correct, the English are taken and the crimes considered are those of violence the proportion of those who are never tried or who, being tried, escape punishment is a good deal more than 50 per cent. of those committing such crimes.

What are the changes that have taken place in the transplanting of the English system to this country that have weakened its effectiveness and that now call loudly for reform? We cannot find the explanation of course in Jeremy Bentham's impeachment of criminal law procedure, because what he said was said of the English system. His comparison of the trial of a murderer to the trial of a fox hunt in which the criminal was given a certain start and had the benefit of a number of rules to prevent his conviction that really interfered with proof of his guilt to the satisfaction of every commonsense mind would apply as well to the English system as our own.

Wherein is the great difference then between the effectiveness of the two systems? I believe it to exist in the character, experience and training of the judges, in the power which they maintain and exercise in the course of the trial for the saving of time and the simplification of the issues and in the respect and obedience given to their intimations from the bench as to the proper behavior of the counsel and the conduct of the case. If there is any other source for the difference it cannot be found in procedure. It must be found in the lighter regard for law and its enforcement on the part of our people as a whole and a consequent less rigorous public opinion in favor of the punishment of crime, which relieves prosecuting officers and Grand Jurors from the highest standard in this regard, and which finds its way into and exerts its influence in the jury panel during the consideration of the verdict. I am not disposed to minimize this last cause, and I am inclined to think that it is a very influential one that it is shown to be such by a similar difference in the effectiveness of machinery for the prosecution of crime in the older States and in the newer and far Western States. But this reason aside, there is no other ground that I know of that will explain the difference between the admirable working of the English machinery for the prosecution of crime and that in this country except what I have called attention to in the character and power of the Judge and in the method and conduct of counsel for the defendant.

The trial by jury secured by the Magna Charta in England and required by the bills of right of our Constitutions was a trial by a court and jury, or rather by a court which was made up of a Judge and jury in which the functions of the Judge were of importance and ought to be as sacredly preserved as the functions of the jury. The tenure of the Judge was during good behavior, practically for life. He was a trained lawyer whose position at the bar when he was appointed gave him a prestige which his elevation to the bench only emphasized. He had complete charge of procedure in the court room. He took an active part in the trial. He followed closely the questions of counsel. For the purpose of clearing his own mind he took the examination out of the hands of counsel and conducted it himself. He limited the cross-examination of counsel to matters that were of im-

portance in the issue. He refused to permit the time of the court to be taken up with a cross-examination as to small and unimportant circumstances. And when it came to charge the jury he not only told them what the law was but he applied the law to the facts, commented on the evidence, frequently indicated an opinion as to the weight of the evidence, but left the decision finally to the jury. If counsel for either the prosecution or the defense had sought by argument to involve the real issue in obscurity and to introduce some other and irrelevant issue it was his function to clarify the matter and "brush away the cobwebs"; in other words, to simplify the question which the jury was to decide. He introduced the historic talent of counsel, the facility for minimizing all important facts and the exaggeration of unimportant circumstances were not permitted to affect the verdict of the jury if the court could control their influence by sober and clarifying comment.

Originally, and until a very recent date, there was in England no appeal from the action of a Judge and the sentence of a court. The Judge might himself reserve in his mind the right to set aside the verdict of a number of Judges, who would decide the question, but there was no writ of error or appellate proceeding permitted. Now the appeal has been introduced in England, but introduced as it is as a modification of the old system the appeal is permitted only in important matters, and technicalities such as occupy so much of the appellate proceedings in this country are almost unknown.

This prestige of the Judge as a learned and skilled lawyer and his power in the conduct of the trial enforced a respect for his rulings and his intimations as to the proper course for the trial to take by both the prosecution and the defense, so that he always had the trial well in hand for the purpose of expedition and simplification of the issues. Nothing else can explain why in this country a murder case should take four weeks in its trial, which in this country, and especially in the Western States, an entirely different institution from what it was understood to be at the time of the adoption of our Constitution.

In many States Judges are not permitted to comment upon the facts at all. They are not even allowed to charge the jury after the arguments of counsel, but they are required to submit written charges to the jury upon abstract questions of law, with no opportunity to apply the principles concretely to the facts of the case, and with the result that the questions of law and fact are largely left to the untutored and undisciplined action of the jury, influenced only by the contending arguments of counsel. The result is that a Judge in the course of a trial imposes upon the manner and conduct of counsel in an English court is thus wholly wanting, with the result that there seems to have been a substantial change in the code of professional ethics governing counsel and in the extreme to which counsel in the defence of their clients seem to think it is entirely proper for them to

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go. Their conduct makes neither for the dignity of the court, for the elevation of the ethics of the bar, for the expediting of criminal procedure, nor for the reasonable punishment of crime. These circumstances, reduced to the position of the Judge from that place of power and usefulness occupied by the English Judge to one in which the trial is largely conducted by the chief counsel for the defense, and those present in court are made to feel that the question at issue is not so much whether the defendant violated the law as whether the Judge is violating it.

The President took a seat at Mr. Irvine's table and remained until the dinner was over. Mr. Henry went back to his speech after there had been repeated calls. He said the prosecution in San Francisco had been a failure despite all the work done and time used.

"To-day," he said, "we have a more corrupt government in San Francisco than in the days of Ruef, and Ruef has been in the penitentiary only three months. The public utilities companies have spent \$3,000,000 corrupting the public mind. They have purchased weekly newspapers, including the Argonaut, which has only a reputation out here, I believe, and when I say purchased I am prepared to prove it with legal evidence."

These are some of Mr. MacChesney's recommendations:

No judgment shall be set aside or reversed or new trial granted on the ground of misdirection of the jury or improper admission or rejection of evidence or for error in any matter or pleading or procedure unless it shall appear to the examining court that such error has affected the substantial rights of the parties.

The right to use private confessions obtained by officers of the law (commonly called the "third degree") should be abolished. The same right of change of venue should be given to the State as to the accused and removed under proper restrictions from one county to another allowed.

The provision requiring a unanimous verdict should be done away with and in all except capital cases, a three-quarters verdict should be allowed.

The power of the trial Judge should be rehabilitated so that he can exercise his common law powers with the right to summarize and comment upon the evidence as in the Federal courts and cease to be what President Taft has designated so aptly as a mere "moderator in a religious assembly."

12. An indictment should be sufficient if it, (a) specifies the crime, its time and location, (b) with sufficient particularity to prevent second prosecution, (c) states the offense, (d) without comment editorially or otherwise, (e) and without comment from the State or District Attorney.

MR. TAFT IN NEWARK.

Meets Henry L. Stimson Before Attending the Masons' Dinner.

President Taft's visit to Newark yesterday was his second in two years. The President went to attend the celebration in connection with the 150th anniversary of Saint John's Lodge No. 1, Free and Accepted Masons.

Masons from nearly all of the Eastern and Southern States gathered in Newark to attend the festivities. The merchants of the city, especially those along the route the President travelled, took an interest in the occasion and dressed their buildings in holiday attire. The people turned out by the thousands to see Mr. Taft.

When the President's train pulled into the Market street station of the Pennsylvania Railroad at 5:12 o'clock, the Taft car was on the end of the train. Amzi Dodd, who was formerly president of the Mutual Benefit Life Insurance Company of Newark, and is nearly 90 years old, stood at the rear of the station platform with his daughter waiting for a train to New York.

As the President approached the venerable man he took off his hat, stopped and shook hands with Mr. Dodd. Ex-Gov.

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Murphy, who was with the Taft party, stepped up and introduced the President to Mr. Dodd.

The President was escorted to the Murphy automobile, which he entered with the ex-Governor, Secretary Hilles and Major Archibald Butt. There was great cheering when Mr. Taft was recognized.

Headed by a platoon of mounted police and with a detail of ninety men of the First Troop on their chargers the President with the Masonic committee following in autos was driven to ex-Gov. Murphy's residence at 1020 Broad street. There a brief reception was held, confined to the committee and a few close personal friends of Mr. Murphy and the President's. Following the reception Mr. Taft was driven to the Krugger Auditorium, where a banquet was held to which over 700 sat down.

Henry L. Stimson was waiting at the Murphy home to see the President, having come over from New York to tell Mr. Taft that he could come to Washington on Monday to assume his duties as Secretary of War. The President welcomed him into the Cabinet family.

"I'll give you your best assignment as the baby member of the Cabinet," said the President. "It will be your duty to speak before the Intercolonial Club of Boston on May 24 on the subject of reciprocity. A member of the Canadian Parliament, Gov. Fane of Massachusetts and Mayor

Fitzgerald of Boston will also address the Intercolonial Club on that day. After the Masons' dinner the President made a short address, praising the charity and love of Masonry, though he added that he had come to Newark to testify by his presence to his respect for the organization and had not intended to make a speech.

Representative McCall of Massachusetts spoke on the question of recall of the judges.

"Would Lincoln," asked Mr. McCall, "have escaped recall in 1862 after a long series of unsuccessful battles and with the great organs of public opinion ranged against him?"

"What sort of a Judge would you have if he were no sooner upon the bench than he might be compelled with his official hand to argue a legal decision upon appeal before a popular tribunal, perhaps before the very mob from whose vengeance he had just rescued a prisoner?"

"Under such a system would a Judge be likely to go to the fountain of jurisprudence or would he consult the weather vane?"

The President (to Toddy) in Harrisburg.

The President spent the